Chapter 17 – Deed Restrictions

A Affordability Periods

The affordability period for all units is determined by the total amount of assistance that goes into the property, e.g. rehabilitation, demolition, new construction, program delivery and developers fee.

For example: A beneficiary receives the following:

Rehabilitation	$14,000
Program Delivery	$2,000

The affordability period for this unit is 10 years because the total amount of assistance is $16,000.

1. CDBG Affordability Periods

Emergency Shelters, youth shelters, migrant seasonal farmworker housing, rental housing, transitional housing, or owner-occupied rehabilitation.

Under $15,000/unit	5 years
$15,000 - $40,000	10 years
Over $40,000 or rehabilitation involving refinancing	15 years

2. HOME Affordability Periods

Owner-occupied rehabilitation, homebuyer, and homeownership counseling downpayment assistance:

Under $15,000/unit	5 years
$15,000 - $40,000	10 years
Over $40,000 or rehabilitation involving refinancing	15 years

Rental and transitional housing

Under $15,000/unit	5 years
$15,000 - $40,000	10 years
Over $40,000 or rehabilitation involving refinancing	15 years
New Construction or acquisition of newly constructed housing	20 years

B Deed Restriction

The deed restriction must state that the property will run as the activity that it was funded under, e.g. a beneficiary of an owner-occupied award would need to state that the home will remain the principal place of residency for the duration of the affordability period.

Additionally, for recipients of homebuyer awards, the entity must utilize either resell or recapture provisions and it must be cited in one of the documents.

For further clarification on resell and recapture, please see their individual section as follows.

C. Emergency Shelters, Youth Shelters, Migrant Seasonal Farmworker Housing, Rental Housing, Transitional Housing

The deed restriction for this activity must be for the affordability period and state that the property will run for the affordability period as the activity it was funded.

C Homebuyer & Downpayment Assistance Awards

Resale Guidelines

Where the program design calls for no recapture or where a program sponsor so chooses, the guidelines for resale may be adopted. Resale restrictions will require the seller to sell the property only to a low-income family that will use the property as their principle residence. The term “low income family” shall mean a family whose gross annual income does not exceed 80% of the median family income for the geographic area as published annually by HUD. As a guideline, the purchasing family should pay no more than 30% of its gross family income towards the principal, interest, taxes, and insurance for the property on a monthly basis. The housing must remain affordable to a reasonable range of low-income buyers for the period described in the HOME regulations, as from time to time may be amended.

The seller of the property shall be allowed to receive a fair return on investment, which will include the homeowner’s investment and any capital improvements made to the property. At a minimum, the subsequent property owner will be subject to the remaining affordability period on the property.

Resale guidelines will only be allowed in situations were there is only a development subsidy. If the homeowner is receiving a homebuyer subsidy then the recapture guidelines must be followed.

Recapture Guidelines

The HOME funds subject to recapture is based on the amount of HOME assistance that enabled the homebuyer to buy the dwelling unit. This includes any HOME assistance that reduced the purchase price from the fair market value to an affordable price, but excludes the amount between the cost of producing the unit and the market value (development subsidy). IHFA has adopted the following method for calculating the amount of HOME recapture based on the net proceeds from the sale of the house shared between IHFA and the homeowner.

If the net proceeds are not sufficient to recapture the full amount of the HOME investment plus recover the amount of the homeowner’s downpayment and any capital improvement made by the owner since purchase, IHFA will share the net proceeds. The net proceeds are the sales price minus loan repayment (other than HOME funds) and closing costs.

The net proceeds may be divided proportionally as set forth in the following mathematical formula:

HOME Recapture Amount = (HI/(HI + HOI)) X Net Proceeds
Homeowner Amount = (HOI/(HI + HOI)) X Net Proceeds

HI = HOME Investment

HOI = Homeowner Investment

Capital Improvements: Shall be defined as the cost of improvements that increase the value of property or lengthens its life. Examples include, but are not limited to, putting a recreation room in an unfinished basement, adding another bathroom or bedroom, putting up a fence, putting in new plumbing or wiring, installing a new roof, or paving the driveway.

See Exhibit A for the Formula Calculation for Net Sale Proceeds